

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: _____
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
:  
UNITED STATES OF AMERICA

- v. -

MICHAEL BESTWINA,

Defendant.  
----- X

: CONSENT PRELIMINARY ORDER  
OF FORFEITURE/  
: MONEY JUDGMENT

: 21 Cr. 371 (LTS)

WHEREAS, on or about June 1, 2021, MICHAEL BESTWINA (the "Defendant"), and another, was charged in a one-count Indictment, 21 Cr. 371 (LTS) (the "Indictment"), with narcotics conspiracy, in violation of Title 21, United States Code, Section 846 (Count One);

WHEREAS, the Indictment included a forfeiture allegation as to Count One of the Indictment, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense charged in Count One of the Indictment, and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense charged in Count One of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of offense charged in Count One of the Indictment;

WHEREAS, on or about January 6, 2022, the Defendant pled guilty to Count One of the Indictment, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Indictment and agreed to forfeit to the United States, a sum of money equal to \$2,500 in United States currency representing any and all property constituting or derived from any proceeds the Defendant obtained directly or indirectly as a result of the commission of the offense charged in Count One of the Indictment,

and any and all property used or intended to be used in any manner or part to commit and to facilitate the offense charged in Count One of the Indictment;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$2,500 in United States currency, representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, for which the Defendant is jointly and severally liable with his co-defendant Frank Fontana, to the extent a forfeiture money judgment is entered against Frank Fontana in this case; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney Jacob H. Gutwillig, of counsel, and the Defendant and his counsel, Richard Collins, Esq., that:

1. As a result of the offense charged in Count One of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$2,500 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Indictment that the Defendant personally obtained, for which the Defendant is jointly and severally liable with co-defendant Frank Fontana, to the extent a forfeiture money judgment is entered against Frank Fontana in this case, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, MICHAEL

BESTWINA, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment into the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By: 

JACOB H. GUTWILLIG  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, NY 10007  
(212) 637-2215

7/19/22

DATE

MICHAEL BESTWINA

By: 

MICHAEL BESTWINA

7/19/22

DATE

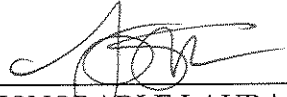
By: 

MARC GANN, ESQ.  
Attorney for Defendant  
138 Mineola Boulevard  
Mineola, NY 11501  
(516) 294-0300

7/19/22

DATE

SO ORDERED:

  
HONORABLE LAURA T. SWAIN  
UNITED STATES DISTRICT JUDGE

7/19/22

DATE